

5-O-B – SEAT TIME WAIVER

An intermediate school district, a local school district, or a public school academy seeking to offer pupils access to online learning options and seeking to offer the opportunity to continue working on a high school diploma or grade progression without actually attending at the school facility may choose to do so under a seat time waiver. The seat time waiver is a Department approved alternative education program or another innovative program which allows a district to provide a number of courses to pupils through virtual learning that exceeds the maximum number allowed under Administrative Rule 340.11. Section 101(9), of the State School Aid Act (MCL 388.1701(9)), permits the Superintendent of Public Instruction to waive the required days and required hours of pupil instruction for alternative education programs or another innovative program approved by the Department, including a four (4) day school week. Section 380.1281 of the Revised School Code allows the Superintendent of Public Instruction the right to waive for a limited time administrative rules if the district can demonstrate that the district can address the intent of the Rule in a more effective, efficient, and economical manner or that the waiver is necessary to stimulate improved pupil performance. Administrative Rule 340.18 grants the Superintendent of Public Instruction the authority to waive for a limited time Pupil Accounting Rules. It is under these provisions that the seat time waivers are granted.

A. Seat Time Waiver Guidance:

Districts shall recognize that the seat time waiver program is an optional program for pupils and may be terminated by the Superintendent of Public Instruction for any reason at any time. This also applies to individual districts operating under consortium seat time waiver programs. Districts shall agree to operate under the following seat time waiver guidelines and also agree to incur required costs associated with operating the program as part of their decision to participate. Programs that fail to operate according to this guidance, fail to demonstrate academic success, or fail to follow the terms of the waiver are subject to termination at the Superintendent of Public Instruction's discretion.

These requirements are directed toward on-line virtual learning.

1. **Board Approval:** The online program used for a district's seat time waiver offering shall be approved by the intermediate school district's board of education, by the local school district's board of education, or by the public school academy's board of directors for the purpose of awarding credit that meets the requirements of Michigan Grade Level Content Expectations or the Michigan Merit Curriculum. Based upon satisfactory completion of courses or other credit-earning activities, the credits earned through the seat time waiver online courses and activities shall be comparable to credits earned for a high school diploma or grade progression in the district's traditional program setting. The board approval shall allow the program director to comply with this guidance.
2. **Method of Delivery:** Online is considered to be the primary method of delivery for instruction used by seat time waiver programs; however, the Department recognizes that methods other than virtual learning can be approved as seat time waiver programs. Technology using interactive television shall also serve as an

appropriate means of instructional delivery. *For districts with an approved seat time waiver located where broadband access is severely limited to the online learning, the Department of Education must give written approval for "offline" computer based delivery of instruction and an alternative means of providing teacher-pupil interaction shall be required and shall be documented.*

3. **Teacher-facilitated Instruction:** The district shall select online courses or other credit-bearing activities that are facilitated by a highly qualified certificated teacher. The **course(s)** shall be approved by the district's local board of education or academy's board of directors and must **generate credit** toward the pupil's high school diploma or grade progression in order to count toward the pupil's membership. The course content must be aligned with the Michigan Grade Level Content Expectations or Michigan Merit Curriculum.
4. **Class Schedules:** Pupils enrolled in seat time waiver programs shall construct, with their mentor or school counselor, a seat time waiver class schedule that details the credits anticipated to be earned by a predetermined course of study over the school year. Class schedules shall be made current within four (4) weeks of each count day and June 30th each year that the pupil was enrolled. The district shall make the class schedule for each pupil available to the pupil accounting auditor within five (5) business days of the request.
5. **Academic Benchmarks:** The effectiveness and therefore the continuation of the district's seat time waiver program shall be determined by the following academic measures:
 - a. **Grade Appropriate Assessments** – Pupils enrolling in a district seat time waiver program must take the grade appropriate state assessment exam.
 - b. **Michigan Merit Examination (MME):** Pupils enrolled in a district seat time waiver program, who have earned 12 or more credits toward the high school diploma, must take the MME as scheduled by the Department of Education's Office of Assessment and Accountability (OEAA). Pupils may only enroll in the district's seat time waiver program and claim more than 16 credits if the district arranges for the pupil to take the MME within the first year of enrollment. *Failure to require the MME will result in forfeiture of the district's waiver.*
 - c. **Evaluation Criteria:** Michigan Department of Education shall establish additional measures of academic success against which the program must show progress. *Failure to participate may result in termination of the district's seat time waiver.*
6. The **district is required to pay any associated tuition charges or fees** for the seat time waiver course(s) and other online activities on behalf of the eligible pupil. These costs include:
 - a. **Student Computer** – The district must offer to provide a computer for each pupil enrolled under an approved seat time waiver (*Bond v. Ann Arbor School*

District, 383 Mich 693, 1970). The computer must include internet capacity and appropriate software configuration for use by the pupil in the home for the length of time that the pupil is enrolled in the seat time waiver program.

- b. **Broadband Connectivity** – The district must offer to provide broadband internet for a pupil enrolled in the program (*Bond v. Ann Arbor School District, 383 Mich 693, 1970*). The broadband internet capacity shall be a minimum of 1Mbps up/ 3 Mbps down for use in the home for the length of time that the pupil is enrolled in the seat time waiver program. *For districts with an approved seat time waiver located where broadband access is severely limited to the online learning, the Department of Education must give written approval for “offline” computer based delivery of instruction and an alternative means of providing teacher-pupil interaction shall be required and shall be documented.*

Note: The district may adopt additional requirements for pupils enrolled in virtual learning, distance learning, or an independent study. Further, a district may choose not to offer a seat time waiver program or to place greater restrictions on their pupils (e.g. eleventh and twelfth grade students only), and/or on the courses offered. This is the local school board’s prerogative.

B. Requirements for Counting Membership:

The following requirements must be met to count pupils enrolled in a seat time waiver program for membership purposes:

1. The pupil **must meet pupil membership eligibility requirements** pursuant to section 6(4) of 1979 PA 94 (MCL 388.1606(4)). (See Section 3 of this manual – Pupil Membership Count Requirements)
2. The **pupil shall be enrolled** in the participating district **and attending** on the pupil membership count day or the supplemental count day pursuant to section 6(8) and 6a of 1979 PA 94 (MCL 388.1606(8) and MCL 388.1606a). Attendance will be determined by the following:
 - a. The pupil having a class schedule for an entire year.
 - b. The pupil logging into at least one program-sponsored online course on each count day. The district must provide the class schedule, login and other online activity reports available to the pupil accounting auditor within five (5) business days of request.
3. A **full-time pupil** shall be measured by logging into at least one program-sponsored online course on each count day and for 19 additional calendar days during the 30-calendar day count period. The school district claiming a pupil under a seat time waiver must produce log-in records for count day and the log-in records during the 30 calendar day window period. If a pupil does not log in on the count day and 19 additional calendar days, a partial FTE shall not be granted. The district shall keep a login record for each pupil and make available to the pupil accounting auditor within five (5) business days of the request.

4. Each **course shall count as one class** on the pupil's class schedule and will generate that portion of an FTE membership that a comparable on-site course offered by the district would generate.
5. The **teacher-of-record must be identified**. For purposes of pupil accounting, the teacher of record must be a certified Michigan teacher employed by the district. The teacher-of-record shall be identified for each pupil enrolled in a seat time waiver program.
6. An **on-site-mentor must be assigned** to the pupil and shall be available for assistance and to monitor the pupil's progress. The on-site mentor may or may not be the teacher of record. The on-site mentor shall be a certificated Michigan teacher employed by the district. The mentor must meet or contact the pupil weekly with the assigned seat-time waiver pupil.

C. Regulatory References:

State Aid Act
388.1701(9)

Revised School Code
380.1281

Administrative Rule
R 340.18

Court Cases
Bond v Ann Arbor School District, 383 Mich 693 (1970)

Counting the FTE

Q #1

How will the State of Michigan track seat time waiver pupils?

A #1

The Center for Educational Performance and Information (CEPI) has added an option for the individualized student record in the Michigan Student Data System (MSDS). Districts enrolling pupils under the Superintendent of Public Instruction's seat time waiver program must indicate that the pupil is participating in the seat time waiver program in field 125 of the MSDS during the appropriate collection window for each collection period in which the pupil is enrolled.

Q #2

Please explain how participation in a seat time waiver program is determined?

A #2

To be enrolled in a seat time waiver program, a pupil must log into at least one program-sponsored online course on each official count day and log in on 19 additional calendar days during the 30 calendar-day count period. The 10/30 day rules for a pupil who is absent on count day also apply to seat time waiver pupils. A seat time waiver pupil who does not log in on count day must log in for a total of 20 calendar-days during

the 30 calendar-day count period. A Saturday and/or a Sunday log in may count toward the required 20 log in days as long as each of those 20 log in days are recorded.

Q #3

If a seat time waiver pupil fails to log in on 20 days during the 30 calendar-day count period, may the district claim a partial FTE for that pupil?

A #3

No. A seat time waiver pupil who logs in fewer than 20 calendar days during the 30 calendar-day count period cannot be counted for membership purposes.

Q #4

The waiver letter from the Superintendent of Public Instruction indicates that a seat time waiver pupil will be considered full-time for purposes of FTE if the pupil takes the same number of courses as that which is considered full-time in their local high school. Can a seat time waiver pupil be eligible for a reduced schedule and be counted for a full FTE?

A #4

No. The reduced schedule is to reduce the number of hours the pupil is required to attend school. The seat time waiver eliminates that attendance requirement; thus, a seat time waiver pupil cannot be granted a reduced schedule.

Q #5

A pupil is enrolled in six courses in the seat time waiver program in the fall and is counted for 1.0 FTE. The pupil completed the six courses and enrolled in six more courses which he completed prior to the February supplemental count day. The pupil did not enroll in any other courses. May the district count this pupil for the supplemental count since the pupil completed equivalent to a full year of courses prior to the February count day?

A #5

No. Section 6(8), of the State School Aid Act (MCL 388.1606(8)), requires that a pupil be enrolled and in attendance on the count day in order to be counted for membership purposes. The pupil is no longer enrolled in the program on the February count day.

Q #6

When a pupil takes courses in a sequential format, such as only three courses over one nine-week period and the number of courses over the semester is equal to a traditional pupil's schedule, how should that be documented?

A #6

Every pupil under a seat time waiver must have a course schedule that reflects an individual learning plan. This integrated course schedule will provide your district's pupil accounting auditor the necessary information to determine FTE.

Q #7

Can a seat time waiver pupil with an IEP be counted for both general education FTE and special education FTE?

A #7

The seat time waiver pupil with a current IEP may be counted for special education FTE for that portion of time the pupil is in the classroom with a special education teacher and for general education FTE for that portion of time that the pupil is participating in the seat time waiver virtual course(s). The sum of the special education FTE and the general education FTE cannot exceed 1.0.

Q #8

A pupil has a physician's certification that the pupil is too ill to attend school; this pupil is now considered Homebound/Hospitalized. Can the pupil participate in a seat time waiver or does the pupil require a minimum two weekly 45 minute visits by a certificated teacher?

A #8

If the pupil is going to be counted under Homebound/Hospitalized, then the district must provide the minimum required two 45-minute one-on-one sessions with a certificated teacher employed by the district. The virtual courses would be supplemental as the Homebound/Hospitalized requirements are for a full FTE. The district could always opt to count the pupil as a seat time waiver pupil and not under Homebound/Hospitalized with the FTE based upon the actual number of courses for which the pupil is scheduled.

Q #9

A pupil is given a permanent expulsion under sections 380.1311 or 380.1311a of the Revised School Code, often referred to as a state mandated expulsion. Can the pupil participate in a seat time waiver or does the pupil require a minimum two weekly one-hour visits by a certificated teacher?

A #9

Under 380.1311 and 380.1311a, the district must provide the pupil with two one-hour individualized instruction with a certificated teacher in order to count the pupil for a full FTE. Another option would be for the district to operate an alternative education program for permanently suspended or expelled pupils who have been expelled from all public schools under sections 380.1311 or 380.1311a using a seat time waiver as the method of providing the pupil instruction. If the district chooses to enroll the pupil in the seat time waiver program and not provide the one-on-one individualized instruction twice a week, the FTE would be prorated based upon the actual number of courses the pupil is participating in during the semester.

Q #10

Must a district request a seat time waiver for any pupil taking online courses off site?

A #10

A pupil who takes one or two courses off site does not require a seat time waiver (See Section 5-0-A). A pupil who takes more than two online courses off site requires the district to have a seat time waiver or the district must be participating through the ISD seat time waiver.

Q #11

Our district's mentor teachers have been serving as the "teacher-of-record" for our

pupils enrolled in virtual learning courses. Is this permissible?

A #11

The teacher-of-record is the certificated teacher who provides instruction, who gives tests and quizzes, who evaluates the pupil's performance and gives the pupil a grade. The on-site mentor may or may not be the teacher of record. The on-site mentor shall be a certificated Michigan teacher employed by the district.

Q #12

If a pupil is enrolled in a seat time waiver program for less than full-time, must the district provide a computer and broadband access at the home?

A #12

The guidance requires that districts must offer all pupils enrolled in a seat time waiver program a computer and broadband access in the home regardless of full-time or part-time status. Families of enrolled seat time pupils may refuse the computer and/or broadband access offered by the district, but the district must notify the families of the opportunity.